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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/848,434 | 05/04/2001 | Jay K. Sheerer | 10-1340 | 8624 |

7590 09/25/2002
Nixon & Vanderhye P.C.
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EXAMINER

ALVO, MARC S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1731

DATE MAILED: 09/25/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,434

Applicant(s)

SHEERER, JAY K.

Examiner

Steve Alvo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-19 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 11-17, drawn to a vessel having discontinuous protrusions, classified in Class 162, subclass 237.

II. Claims 18-27, drawn to process for treating a liquid slurry, classified in Class 162, subclass 19.

III. Claims 18-27, drawn to a vessel having continuous annular protrusions, classified in Class 162, subclass 251.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.P.E.P. § 806.05(e)). In this case the apparatus of Groups I and III do not require "treating of a liquid slurry of comminuted material" as required by the method claims of Group II and can be used to perform other processes such as bleaching chemical wood pulp.

Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the apparatus of Group I does not require the continuous annular protrusions of Group III and the apparatus of Group III does not require the discontinuous protrusions of Group I.

Because these inventions are distinct for the reasons given above and have required a separate status in the art as shown by their different classification restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Jeffry H. Nelson on 9-18-2002 a provisional election was made without traverse to prosecute the invention of Group III, claims 22-25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-19 and 21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on

sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

SCHNYDER. or CANADIAN PATENT APPLICATION 2,243,733 in view of RICH.

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SCHNYDER. (5, 21) or CANADIAN PATENT APPLICATION 2,243,733 (Figures 7B 16A and 16B) teaches continuous annular protrusions connected to an internal section of a vessel each protrusion having a triangular cross section. The surface of SCHNYDER. is a screenin surface or CANADIAN PATENT APPLICATION 2,243,733 teaches that the continuous surface can be a screening surface (page 9, lines 27-28). RICH teaches using a screening surface having a spacing from the vessel surface of $\frac{3}{4}$ to 2 inches (column 3, lines 54-57). It would have been obvious to structure the screens of SCHNYDER. (5, 21) or CANADIAN PATENT APPLICATION 2,243,733 (Figure 7B) to the depth taught by RICH. It is noted that CANADIAN PATENT APPLICATION 2,243,733 that the design allows for "column relief", page 7, lines 18-23.

Claims 22-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JOHANSON

See JOHANSON Figures 8 and 9, Figure 5 and column 4, lines 45-52, wherein the protrusion (32) has a triangular cross section and extends into the vessel 8 inches, e.g. the width of the base (32) in Figure 5. Any difference in the shape or size of the protrusion of JOHANSON would have been an obvious modification based on the type and size of the material being treated.

Ekholm et al cited to show screen structure with triangular cross section.

Oettinger cited to show screnn with annular support above the screen panels having a triangular cross section (Fig. 1).

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Any inquiry concerning this communication or earlier communications from the **primary examiner** should be directed to **Steve Alvo** whose telephone number is **(703) 308-2048**. The Examiner can normally be reached on Monday - Friday from **6:00 AM - 2:30 PM (EST)**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Stanley Silverman, can be reached on 703-308-3837.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group receptionist** whose telephone number is **(703) 308-0661**.

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Carolyn E. Johnson, Marshall Gaddis, Bessie Bowie, Lucy Jones.



STEVE ALVO
PRIMARY EXAMINER
ART UNIT 1731

MSA

September 21, 2002